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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 26, 2002

PETITION OF

COLUMBIA GAS OF VIRGINIA, INC.

CASE NO. PUE-2002-00070

For a Declaratory Judgment

FINAL ORDER

On January 17, 2002, Columbia Gas of Virginia, Inc. ("Columbia" or "Company"), filed a petition for declaratory judgment ("Petition") with the State Corporation Commission ("Commission"). In its Petition, Columbia requested the Commission to declare that the Company had authority under Rate Schedule TS-1 or Rate Schedule TS-2 to: (i) issue balancing service restrictions; (ii) restrict Columbia's customers' access to banked natural gas qualities; (iii) charge customers a Gas Daily commodity price for gas consumed in excess of their authorized daily volume during a balancing service restriction; (iv) assess a penalty of \$10 per Mcf for all gas used in excess of 102 percent of the customers' authorized daily volumes during a balancing service restriction; and (v) not waive penalties assessed against "habitual" offenders of its balancing service restrictions. The Company asserted that a declaratory judgment would afford relief to it and its customers who received service

from Columbia during the winter of 2000-01, and resolve any uncertainty regarding the Company's as well as customers' rights under Rate Schedules TS-1 and TS-2. Columbia alleged that there was no other adequate remedy available to it.

On February 7, 2002, the Commission entered its Preliminary Order in this matter. In that Order, the Commission docketed the Petition; appointed a Hearing Examiner to conduct further proceedings on the matter on behalf of the Commission; and invited interested parties to file with the Clerk of the Commission on or before March 18, 2002, a pleading responsive to Columbia's Petition, a request for hearing, or both a responsive pleading and a request for hearing. The Order also directed the Company to publish notice of its Petition and to serve the notice prescribed therein: (i) on Columbia customers who were served under Rate Schedules TS-1 and TS-2 as of January 31, 2001; (ii) on any Columbia customers currently served under Rate Schedules TS-1 and TS-2; and (iii) on interested persons that Columbia had reason to expect would seek service under Rate Schedules TS-1 and TS-2. The February 7, 2002, Preliminary Order also directed Columbia to file its proof of publication and service of the prescribed notice on or before April 19, 2002, with the Clerk of the Commission.

In response to the Preliminary Order, a number of interested parties filed comments. On March 11, 2002, the

Virginia Industrial Gas Users' Association ("VIGUA") filed an Answer to the Company's Petition, a Cross-Petition for Declaratory Judgment and a Request for Hearing ("Cross-Petition").

In its Cross-Petition, VIGUA asked the Commission, among other things, to declare that Columbia's actions be found in violation of §§ 56-234, -236, and -237 as a result of the Company's failure to abide by its tariffs, require the Company to refund sums paid as a result of Columbia's imposition of penalties and improper charges, render Columbia liable for any other damages incurred by VIGUA members as a result of the Company's violations of its tariffs, grant interest on the amount of the refund and damages incurred by VIGUA members at the rate of interest allowed by law, and grant any such further relief as the Commission deemed just and proper.

By Hearing Examiner's Rulings dated April 3, 2002, and April 25, 2002, the Hearing Examiner established a procedural schedule for the Petition and directed that a hearing be convened in this matter on July 11, 2002.

On May 13, 2002, VIGUA filed a Motion for Summary Judgment, arguing that the issues in the case involved a legal determination based on admitted facts. On May 15, 2002, VIGUA filed a Motion to Continue All Procedural and Discovery Dates ("Motion to Continue") on the grounds that the filing of testimony and exhibits would be

expensive and unnecessary if its Motion for Summary Judgment was granted. On May 16, 2002, Stand Energy Corporation ("Stand"), by counsel, filed a Motion in support of VIGUA's Motion to Continue.

In his Ruling of May 17, 2002, the Hearing Examiner granted VIGUA's Motion to Continue, and suspended the procedural schedule established in his Rulings of April 3, 2002, and April 25, 2002, pending further ruling.

On May 21, 2002, Columbia filed a Motion to Vacate the Hearing Examiner's Ruling of May 17, 2002; Response to the Motion of VIGUA to Continue All Procedural and Discovery Dates; Motion to Dismiss Cross-Petition with Prejudice and to Compel Response to Discovery ("Motion to Vacate"). By Hearing Examiner's Ruling of May 22, 2002, oral argument was scheduled for May 24, 2002, on the parties' motions. On May 23, 2002, VIGUA filed a statement in opposition to Columbia's motions of May 21, 2002.

Following oral argument, the Hearing Examiner denied VIGUA's Motion for Summary Judgment, and by his May 24, 2002, Ruling, granted Columbia's Motion to vacate the Hearing Examiner's Ruling of May 17, 2002; denied Columbia's Motion to Dismiss VIGUA's Cross-Petition; reinstated the July 11, 2002, hearing date; and revised the procedural schedule for the filing of testimony and exhibits by the Company, the Staff, and Respondents.

At Columbia's request, a prehearing conference was convened on July 8, 2002, at which time the Company outlined its intentions for settlement of the issues raised in the proceeding. (Tr. at 79-96.) Following a recess, Columbia, the parties, and Staff advised the Hearing Examiner that they had made progress toward reaching a settlement and hoped to offer a settlement with the details to be agreed upon by July 11, 2002, the scheduled hearing date. (Tr. at 90-96.)

On July 11, 2002, the matter came for hearing before Howard P. Anderson, Jr., Hearing Examiner. Counsel appearing were Edward L. Flippen, Esquire, counsel for Columbia; Louis R. Monacell, Esquire, and Brian R. Greene, Esquire, counsel for VIGUA; Guy T. Tripp, III, Esquire, and Renata M. Manzo, Esquire, counsel for Stand; and Sherry H. Bridewell, Esquire, and Wayne N. Smith, Esquire, counsel for the Commission Staff. Proof of the service and publication required by the February 7, 2002, Preliminary Order was received as Exhibit 1. No public witnesses appeared. At the hearing, the case participants advised that a settlement had been reached and that a Motion Requesting Approval of an Offer of Settlement would be filed. Later that day, Columbia filed a Motion Requesting Approval of Offer of Settlement.

On August 1, 2002, the Hearing Examiner issued his Report in this matter. In his Report, the Examiner summarized the

parties' allegations and the positions taken by the parties as well as the key elements of the terms of the settlement. He found that the terms of the Offer of Settlement constituted a reasonable compromise in the case that restored the transportation customers to their previous positions and under which the Company suffered no harm. The Examiner noted that although approximately \$6.8 million in penalties was levied, less than that amount had been paid by the customers. He explained that because interest would be calculated only on the actual amount paid, the Offer of Settlement provided that the refund should be made without interest. The Examiner recommended that the Commission accept the Offer of Settlement and dismiss the captioned matter from the docket of active cases. The Hearing Examiner invited parties to file comments in response to his Report within fourteen days of the date of its entry.

No comments were filed in response to the August 1, 2002, Hearing Examiner's Report.

NOW, UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that the findings and recommendations of the August 1, 2002, Hearing Examiner's Report should be adopted; that the Offer of Settlement appended to Columbia's July 11, 2002, Motion Requesting Approval of Offer of Settlement is reasonable and should be accepted; and that the terms of said

Offer of Settlement should be incorporated herein by their attachment as Attachment A hereto.

We commend the case participants for their hard work and diligence in crafting an agreement that carefully balances the interests of the Company and its transportation customers. We recognize that the issues presented in this case were complex and find that the terms of the Offer of Settlement fairly resolve the matters in dispute.

Accordingly, IT IS ORDERED THAT:

(1) The findings and recommendations of August 1, 2002, Hearing Examiner's Report are hereby adopted.

(2) The terms of the Offer of Settlement (Attachment A hereto) are hereby accepted.

(3) Columbia and VIGUA are hereby permitted to withdraw their respective petitions, consistent with the provisions of paragraph 1, page 1 of the Offer of Settlement.

(4) Columbia shall comply with the representations it has made in the attached Offer of Settlement.

(5) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings and the papers filed herein made a part of the Commission's file for ended causes.